

HOUSE BILL 3119

By Buck

AN ACT to amend Tennessee Code Annotated, Title 32, Chapter 4, Part 1, relative to contests of wills and testaments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 32-4-101, is amended by deleting the section in its entirety and by substituting instead the following:

§32-4-101. If the validity of any last will or testament, written or nuncupative, is contested, then the court having probate jurisdiction over such last will or testament must enter an order sustaining or denying the contestant's right to contest the will. If the right to contest the will is sustained, then the court must:

(1) Require the contestant to enter into bond, with surety, in the penal sum of five hundred dollars (\$500), payable to the executor mentioned in the will, conditioned for the faithful prosecution of the suit, and in case of failure therein, to pay all costs that may accrue thereon; and

(2) Cause a certificate of the contest and the original will to be filed with the appropriate court for trial.

As used in this section, the term "the appropriate court for trial" means the court elected by the contestant, in the notice of contest, to conduct a trial upon the validity of the will.

SECTION 2. Tennessee Code Annotated, Section 32-4-104, is amended by deleting the section in its entirety and by substituting instead the following:

§32-4-104. After the filing of the certificate of the contest and the original will, in the office of the clerk of the appropriate court for trial, pursuant to §32-4-101(2), an issue or issues shall be made up, under the direction of the court, to try the validity of the will.

SECTION 3. Tennessee Code Annotated, Section 32-4-109, is amended by deleting the section in its entirety and by substituting instead the following:

§32-4-109. Any court of record having probate jurisdiction, whether a chancery court or other court of record established by private or public act, has concurrent jurisdiction with the circuit court to conduct a trial upon the validity of a will, in the manner and to the extent prescribed in this chapter. Notwithstanding any provision of law to the contrary, prior to certification of the fact of the contest, pursuant to §32-4-101(2), the contestant shall elect, in the notice of contest, either the circuit court or the chancery court, (or other court of record having such concurrent jurisdiction), to conduct a trial upon the validity of the will.

SECTION 4. This act shall take effect July 1, 2002, the public welfare requiring it.